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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 15-11-2005

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WRIT PETITION No.24338 OF 2005

Between:

Ch.Sai Karthik . . .Petitioner

And

The Commissioner of Tribal Welfare and others . . Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.24338 OF 2005

O R D E R:

The petitioner claims to be a scheduled tribe candidate. He appeared in EAMCET, 2005 and secured the rank of 97211. On the basis of his rank, he was provisionally selected against a seat reserved in favour of scheduled tribe candidate. However, during the course of verification, the social status of the petitioner was doubted. Through memo, dated 01-09-2005, the first respondent directed the Convenor to keep a seat reserved in favour of the petitioner and proposed to undertake further enquiry. He required the petitioner and his father to appear before him on 08-09-2005.

After conducting preliminary enquiry, the first respondent addressed a letter, dated 26-10-2005, to the second respondent stating that there are several factors to doubt the genuinity of the claim of the petitioner and that the matter needs to be enquired into by the District Collector, Khammam, in accordance with the provisions of the Andhra Pradesh (Scheduled Caste, Scheduled Tribe and Backward Classes) Regulation of issue of Community Certificates Act, 1993. The petitioner challenges the same. Placing reliance upon certain provisions, the petitioner contends that he is entitled to be admitted into the course, pending such enquiry.

Heard the learned counsel for the petitioner and learned Government Pleader for Social Welfare.

In the recent past, the instances of the doubts being expressed about the

genuinity of social status of candidates, who have been issued caste certificates, have increased. With a view to protect the interests of genuine candidates, a mechanism was adopted during the course of admissions to undertake verification of the social status. It is in this process that the first respondent doubted the social status of the petitioner. After examining the petitioner and his father on 08-09-2005 and on verification of the records, the first respondent made the following observations:

a. *The Candidate is an offspring of inter caste marriage between said to be tribal (Koya) father and admittedly non-tribal (setti Balija) mother.*

b. *In the transfer certificates of the candidate issued by the Head Master, Nagarjuna High School, Srinivasapuram Colony, Visakhapatnam and Principal, Narayana Junior College, Vanasthalipuram, Ranga Reddy district, the caste of the candidate is not recorded.*

c. *The marriage certificate of the parents of the candidate shows it was solemnized under the auspices of Abhyudaya Vivaha Vedika, Hyderabad, on 21-12-1986 and it is evident that it is not accepted by the tribal community of the father which is a prime requisite for claiming Scheduled Tribe status of offsprings of such marriages.*

d. *The candidate and his father are ignorant of types of traditional marriages.*

e. *The Mandal Revenue Officer, Venkatapuram, Khammam district has not conducted proper enquiry in the light of Government of India instructions on Scheduled Tribe status of off-springs of inter caste marriages between tribal and non tribal parents.*

Under the provisions of the Act, a detailed procedure is prescribed for cancellation of a caste certificate issued by any competent authority. The procedure is very elaborate and it takes a quite some time. It is true that a caste certificate issued to a candidate by the competent authority would endure to his benefit till it is cancelled.

In the instant case, the first respondent, who is the Head of the Department, had undertaken a personal enquiry into the matter and made certain observations, which, if true, would have a direct bearing on the status of the petitioner. Two conflicting situations emerged under these circumstances. Firstly, the petitioner cannot be denied admission on the ground that the enquiry

is contemplated and secondly, the petitioner cannot be permitted to avail the benefit of reservation even when certain factors, which have a direct bearing on the matter have been noticed. A balance needs to be maintained between these two factors.

Inasmuch as the seats in engineering course are available in the State in plenty, no prejudice would be caused, if the petitioner is admitted for the present, by requiring him to pay the fee on par with any regular candidate subject to certain conditions.

For the foregoing reasons, the writ petition is disposed of directing that the petitioner shall be admitted into the course by requiring him to pay the fee on par with an O.C. candidate selected by the Convenor. The payment of such fee shall be subject to the outcome of the enquiry and in case, it is held that the petitioner is a genuine scheduled tribe candidate, he shall be entitled for refund of the differential amount. On the other hand, if the caste certificate is cancelled, he shall be under an obligation to pay the fee as an O.C. candidate throughout and he shall not be entitled to any benefit of reservation in future. The enquiry shall be completed within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

15th NOVEMBER, 2005.

Note: furnish copy in three days.

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